

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: KAWABE=1

In re Application of:)	Confirmation No.: 1850
)	
Yoshiki KAWABE et al)	Art Unit: 1647
)	
I.A. Filing Date: 04/15/2004)	Examiner: E. G. Stoica
371(c) Date: October 17, 2005)	
)	August 3, 2007
U.S. Appln. No.: 10/553,672)	
)	
For: AGENT FOR TREATING)	
DIABETES MELLITUS)	

REPLY TO RESTRICTION REQUIREMENT

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants are in receipt of the Office Action
mailed July 6, 2007, in the nature of a restriction
requirement on the basis of purported lack of unity of
invention under the applicable PCT Rules 13.1 and 13.2.
Applicants reply below.

First, however, applicants respectfully request the
PTO to acknowledge receipt of applicants' papers filed under
§119.

Restriction has been required between what the PTO deems as being two (2) separate inventions which are not linked by the same or corresponding special technical features. As applicants must make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect what is now a method for treating diabetes, now claims 1, 4, 7 and 16, with traverse and without prejudice.

First, according to the International Preliminary Examination Report (IPER), it has been recognized at the international level that the present application meets the requirements of unity of invention under PCT Rules 13.1 and 13.2. Applicants understand that the PTO is not bound by the holding of the International Examining Authority, but on the other hand such holding at the international level should not be ignored, particularly taking into account issues of harmonization and comity.

The examiner states that stem cell recruiting factors were known in the art, as evidenced by Canturk et al or Sato et al. However, applicants' claims are based on the finding that disrupted pancreatic Langerhans β -cells in diabetes can be repaired by G-CSF administration (see page 4, lines 16-19). Neither Canturk et al nor Sato et al describes the activity of stem cell recruiting factors to generate β -

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cells. Therefore, the two groups do not lack the same special technical features.

In view of the foregoing, applicants' believe and submit that the restriction requirement should be withdrawn, and that claims 1, 4, 7 and 16, and claims 10, 14, 15 should be examined together.

Examination on the merits of all the claims is respectfully requested.

Respectfully submitted,

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